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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,426	04/25/2001	Andrei V. Dorofeev	P6102 US	8550

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SUN MICROSYSTEMS INC
4120 NETWORK CIRCLE
MS USCA12-203
SANTA CLARA, CA 95054

EXAMINER

VO, LILIAN

ART UNIT	PAPER NUMBER
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2127

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/843,426

Applicant(s)

DOROFEEV ET AL.

Examiner

Lilian Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1 – 12 are pending.

Specification

2. The disclosure is objected to because of the following informalities:

Specification page 3, lines 2 – 3 recites "...a group of processes executing a specific separate set of processes." The examiner believes that is a typographical error and that set of processes should be set of processors.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 – 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. **Claims 1, 5 and 9**, recite the limitation "assigning each of said process groups a number of shares **for each or said at least** one processor set", pages 10 and 11, lines 5 – 6 and page 12, line 6 – 7, respectively. This recitation is considered unclear and confusing. Although presumed

by the Office, for the purpose of examination, that it is assigning each process group a number of shares for each processor set.

Appropriate correction is required.

6. **Claims 3, 7 and 11**, recite the limitation “assigned to said each of said process groups to **the a** number of shares”, pages 10 - 12, lines 2 – 3, respectively. The examiner believes that is a typographical error.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by White Paper (“Solaris Resource Manager – Controlling System Resources Effectively”), *Cited by applicant.*
9. Regarding **claim 1**, White Paper discloses a method for allocating a percentage of system resources among process groups in a computer system, said computer system comprising at least

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one CPU, said at least one CPU combined into at least one processor set (page 2, paragraph 4, page 5, paragraph 4), said method comprising:

- a. assigning each of said process groups a number of shares for each or said at least one processor set (page 5, paragraphs 4th, 7th, page 6, paragraphs 1, 2, page 8, paragraph 1 and page 13, paragraph 4, and figs. 2-1 and 3-1);
- b. allocating said system resources of each of said at least one processor set to each of said process groups according to the number of shares assigned to said each of said process groups (page 5, paragraphs 4th, 7th, page 6, paragraphs 1, 2, page 8, paragraph 1 and page 13, paragraph 4, and figs. 2-1 and 3-1).

10. **Claims 5 and 9** are rejected on the same ground as stated above.

11. Claims 1 - 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Bitar et al. (US 6,714,960, hereinafter Bitar).

12. Regarding **claim 1**, Bitar discloses a method for allocating a percentage of system resources among process groups in a computer system, said computer system comprising at least one CPU, said at least one CPU combined into at least one processor set (col. 4, line 61 – col. 5, line 8, and fig. 1), said method comprising:

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- a. assigning each of said process groups a number of shares for each or said at least one processor set (col. 4, lines 2 – 24, col. 4, line 54 – col. 5, line 8);
- b. allocating said system resources of each of said at least one processor set to each of said process groups according to the number of shares assigned to said each of said process groups (col. 4, lines 2 – 24, col. 4, line 54 – col. 5, line 8).

13. Regarding **claim 2**, Bitar discloses the method of claim 1, wherein said system resources of each of said at least one processor set are allocated on a number of shares of all active groups within said each said at least one processor set (col. 4, line 54 – col. 5, line 8).

14. Regarding **claim 3**, Bitar discloses the method of claim 1, wherein said percentage of said system resources is calculated based on a ratio of the number of shares assigned to said each of said process groups to the number of shares of all active groups within said each of said at least one processor set (col. 4, line 54 – col. 5, line 8).

15. Regarding **claim 4**, Bitar discloses the method of claim 1, wherein each said process groups includes only one process (fig. 1).

16. **Claims 5 – 12** are rejected on the same ground as stated above.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 703-305-7864. The examiner can normally be reached on Monday - Thursday, 7:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 703-305-9678. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lilian Vo
Examiner
Art Unit 2127

lv
April 29, 2004


MENG-AI T. AN
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